

Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE: NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION STUDENT-
ATHLETE CONCUSSION LITIGATION**

) MDL No. 2492
)
) Master Docket No. 1:13-cv-09116
)
) Judge John Z. Lee
)
) Magistrate Judge M. David Weisman

DECLARATION OF CRYSTAL UTLEY OF EPIQ MASS TORT

I, Crystal Utley, declare as follows:

1. I am a Senior Vice President of Garretson Resolution Group (d/b/a Epiq Mass Tort). On July 15, 2016, the Court appointed Epiq Mass Tort (“Epiq”) as the Program Administrator to “administer the Second Amended Settlement in accordance with the terms and conditions of this Order and the Second Amended Settlement Agreement.” (Dkt. 278, ¶ 13.) I make this declaration based upon my personal knowledge, and I am competent to testify as to its contents.

2. In February 2021, Settlement Class Counsel submitted an unopposed motion requesting the Court grant leave to the Program Administrator to pay expenses related to its implementation of the Medical Monitoring Program (“the Program”) from the Medical Monitoring Fund (Dkt. 606). In that declaration, Epiq described its expenses incurred through the end of 2020 (with the exception of Class Member Services, which will be addressed below) and characterized its estimates for 2021 expenses for construction of the network of Program Locations in comparison with its original estimates provided to Settlement Class Counsel and Counsel for the NCAA (collectively, “the Parties”) in 2015. The purpose of this declaration is to update the Court regarding expenses incurred by Epiq in 2020 and 2021 in its setup and delivery of the Program, and to request Court approval for payment for those expenses.

3. I offer the following description of activities performed by Epiq beyond those activities covered in the February 2021 Declaration.

Construction of the Network of Program Locations

4. In the February 2021 Declaration, Epiq described a number of factors that caused the cost of construction of the network of Program Locations to be higher than the inflation-adjusted estimates of these activities in the 2015 cost estimate provided to the Parties. In that Declaration, Epiq also proposed to “roll over” \$202,260 in remaining cost projections to 2021, during which time Epiq would complete the initial setup of Program Locations. In spite of delays caused by the COVID-19 pandemic, Epiq has made significant progress in construction of the network of Program Locations, with active clinical neuropsychologists in 32 of the 34 target cities and active neurologists in 24 of the 34 target cities. Consistent with the February 2021 Declaration, Epiq continues to believe that the ultimate effect of the pandemic will be to delay the establishment of the network, but not to increase the costs of doing so.

5. As a result of its efforts in 2021, Epiq now believes the bulk of setup activities will be completed by the end of August 2021, with total billings in 2021 for this activity in line with the February 2021 Declaration. Total billings are projected at \$209,340, which is the \$202,260 “rollover” with Epiq’s annual 3.5% inflation adjustment (per the terms of Epiq’s retention agreement) applied for 2021.

Aligning Time Periods When Comparing 2015 Cost Estimate and Current Projections

6. In the 2015 cost estimate provided to the Parties, Epiq characterized Program setup activities as taking place in “Year 0,” with delivery of the Program itself occurring from “Year 1” through “Year 50.” To date, all activities described in previous Declarations to the Court can be categorized as Year 0 setup activities. Apart from construction of the network of Program

Locations “rolled over” into 2021 (as described in paragraphs 4 and 5 above), Year 0 activities are now complete.

7. When comparing current 2021 fee projections with Program delivery activities characterized in the 2015 cost estimate to take place beginning in Year 1 of the Program, a complicating factor is that different categories of activities have begun at different times. For instance, Class Member Services (the Settlement Class Member call center) activities in support of Settlement Class Member registration began in early 2020, while maintenance activities for the network of Program Locations (ongoing work with Program Locations once the bulk of network construction is complete) is not scheduled to begin until September 2021. In order to compare “apples to apples” when comparing current projected fees for 2021 with inflation-adjusted costs estimates from 2015, this Declaration will prorate the inflation-adjusted cost estimate from 2015 for each category of activities to match the number of months in 2021 those activities will be performed. For example, in the case of maintenance activities for the network of Program Locations, which will begin in September 2021, the comparator from the 2015 cost estimate will be one-third of the annual estimate, to reflect the fact that this activity will be performed for only four months in 2021.

8. Finally, in order to simplify future analyses, Year 2 for purposes of comparison with the 2015 cost estimate will begin on January 1, 2022, for all activities, regardless of when they began in 2021. Because all delivery activities will be underway by that date, future cost projections will be able to be made between current fee projections and those from the 2015 cost estimate for full calendar years.

Class Member Services

9. In the 2015 cost estimate, Epiq characterized Class Member Services (its Settlement Class Member call center) in support of Settlement Class Member registration as a Year 1 activity. This work actually began in early 2020 and continued through February 2021, after which the call center transitioned to a heavy focus on supporting the scheduling of in-person Medical Evaluations for Qualifying Class Members. (Note that because previous expense declarations were confined to tasks characterized as “setup activities” in the 2015 cost estimate, those previous declarations have not addressed Class Member Services, even work taking place in 2020, because Class Member Services were not characterized as “setup activities.”)

10. The 2015 cost estimate projected Class Members Services activities in support of Settlement Class Member registration of \$294,467. Adjusting for inflation to 2020 levels (since the bulk of this work was performed in 2020), results in an estimate \$326,480. Actual Class Member Services billings for the registration period were \$283,080. This represents a savings of \$43,400 when compared to the inflation-adjusted estimates from 2015.

11. As stated in paragraph 9 above, after February 2021, the focus of Epiq’s Settlement Class Member call center changed from registration support to support of Qualifying Class Members scheduling in-person Medical Evaluations. This work was also characterized as a Year 1 activity in the 2015 cost estimate (under a separate entry). Prorating the 2015 cost estimate for this activity for the ten months of 2021 that this work will be performed (March 2021 through December 2021) and adjusting for inflation, the 2015 cost estimate for this work is \$39,902.

12. Based on current trends, Epiq projects billings for this cost category of \$48,920. This represents a \$9,018 increase over the prorated, inflation-adjusted 2015 cost estimate.

13. In total, past and projected Class Member Services activities through the end of 2021 are projected to total \$331,999. When compared to the prorated, inflation-adjusted 2015 cost estimate for the same activities of \$366,382, current projections represent a savings of \$34,383 over the original estimate.

Program Location Network Maintenance

14. As stated earlier in this Declaration, Epiq anticipates largely completing the construction of the network of Program Locations by the end of August 2021. Beginning in September 2021, Epiq will then focus on maintenance of the network of Program Locations, which includes activities such as supplementing the network in areas of especially high demand for Medical Evaluations and replacing Program Locations who leave the Program.

15. Adjusting the 2015 cost estimate for these activities for inflation, then prorating them for the four months of 2021 that these tasks will be performed, results in a cost estimate of \$43,557. Based on current projections, Epiq believes fees for these activities will not exceed estimates.

Provider Support and Provider Invoice Processing

16. These activities encompass the Epiq Operations Team's work in support of providers at Program Locations, including assistance with the Provider Portal, troubleshooting issues, and processing and paying provider invoices. These activities began in May 2021. Adjusting the 2015 cost estimate for inflation and prorating for the eight months in 2021 that these tasks will be performed results in a cost estimate of \$38,767.

17. Due to process enhancements that Epiq has put in place since the 2015 cost estimate, Epiq estimates 2021 fees for these activities will be much lower than expected, for a total of \$17,217. This represents a savings of \$21,550 versus the 2015 cost estimate.

Software Maintenance

18. In its 2015 cost estimate, Epiq estimated software maintenance costs of \$75,000. Adjusting this estimate for inflation results in a cost estimate of \$86,604. (This task will be performed throughout 2021, so proration is not necessary.) Based on current projections, Epiq believes costs for these activities will not exceed estimates.

Program Management

19. All activities described thus far in this Declaration were captured in Epiq's 2015 cost estimate. One category of activities that was not captured, however, was overall Program management beyond initial Program setup. Although management of the individual tasks described earlier in this Declaration was included in the cost estimates for those activities, overall Program management activities such as communications with the Special Master, the Parties, and the Medical Science Committee; reporting; and coordination among various Epiq departments were not included in the 2015 cost estimate. Based on Program management activities in 2021 to date, Epiq projects total fees for this category of \$97,608 for the full year.

20. Although Program management will be an ongoing need, Epiq anticipates that costs for these activities will decline in future years. In its experience implementing other nationwide medical monitoring programs, first-year management expenses are higher than ongoing expenses, as Settlement Class Members are registering and initially navigating the Program, as providers are learning the administrative requirements of the Program, and as software bugs and gaps in Program processes are discovered, corrected, and documented. Although Epiq does not have current projections for Program management costs beyond 2021, it believes Program management expenses will decline no later than 2023, if not beginning in 2022.

Pass-Through Expenses

21. As described in the February 2021 Declaration, Epiq paid up-front licensing fees to owners of four psychological assessments required by the Medical Science Committee as part of the Screening Questionnaire. One owner, PAR, Inc. (which owns the Behavior Rating Inventory for Executive Functioning – Adult Version [BRIEF-A] and the Structured Inventory of Malingered Symptomatology [SIMS]) required up-front payment for 4,000 uses of each test. Because Epiq has not administered 4,000 Screening Questionnaires to date, there have been no additional expenses associated with these tests to date.

22. The owner of the other two tests, Pearson (which owns the Beck Depression Inventory II [BDI-II] and the Brief Symptom Inventory 18 [BSI-18]), agreed to allow the Program to pay for assessments as they are used, along with the payment of an up-front \$6,880 licensing fee. Based on pay-as-you-go charges to date and projected charges for the remainder of 2021, Epiq estimates pass-through licensing fees of no more than \$10,000 for the Pearson tests administered through the Screening Questionnaire.

23. Epiq has also paid fees to LexisNexis for use of its proprietary identity verification service. This service enables Epiq to verify the identity of all individuals attempting to register for the Program with the use of their personal identifying information. Epiq paid \$2,035 in up-front implementation fees in 2020 and pays a monthly fee of \$250 for use of this technology. Through the end of 2021, Epiq projects total pass-through costs for this technology for which it has not been reimbursed of \$7,285.

24. In all, Epiq requests approval for reimbursement of up to \$17,285 for pass-through expenses – up to \$10,000 for pay-as-you-go fees to Pearson, and \$7,285 for the LexisNexis identity verification service.

Summary

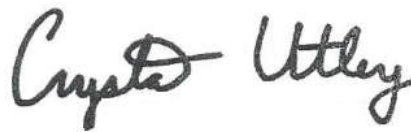
25. In summary, Epiq requests approval for \$593,730 in fees and expenses not previously approved by the Court. This amount includes \$331,999 for past and projected Class Member Services (call center) activity, \$43,557 for maintenance of the network of Program Locations starting in September 2021 (note: fees for construction of the network through August 2021 have already been approved), \$17,217 in provider support and provider invoice processing activities, \$86,064 in software maintenance, \$97,608 in ongoing Program management, \$10,000 in pass-through licensing fees to Pearson, and \$7,285 in pass-through access fees to LexisNexis.

26. Combined with hourly fees of \$1,981,631 previously approved by the Court, hourly fees requested in this Declaration of \$576,445 would result in total approved hourly fees for the Program to date of \$2,558,076.

27. Combined with pass-through expenses of \$90,583 previously approved by the Court, pass-through expenses requested in this Declaration of \$17,285 would result in total approved pass-through expenses for the Program to date of \$107,868.

I declare under penalty of perjury under the laws of the State of North Carolina that the foregoing is true and correct.

EXECUTED on this third day of September 2021, at Charlotte, North Carolina.



Crystal Utley
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